

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF CORRECTION

103 DOC 519

SEXUALLY ABUSIVE BEHAVIOR PREVENTION
AND INTERVENTION POLICY

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MASSACHUSETTS DEPARTMENT OF CORRECTION	DEPUTY COMMISSIONER, Prison Division
SEXUALLY ABUSIVE BEHAVIOR PREVENTION AND INTERVENTION POLICY	103 DOC 519

PURPOSE AND SCOPE: To provide Department of Correction ("Department") guidelines to address the following prohibited and/or illegal sexually abusive behavior involving:

- i Inmate perpetrator against inmate victim; or
- i Department employee, contractor or volunteer perpetrator against inmate victim.

REFERENCES: M.G.L., c. 124 § 1, M.G.L., c. 268 § 21A
Prison Rape Elimination Act ("PREA") of 2003, Public Law 108-79

APPLICABILITY: Department Employees
Contractors
Volunteers
Inmates

PUBLIC ACCESS: Yes

LOCATION: Department Central Policy File
Each Institution's Policy File
Office of Affirmative Action Policy File
Each Inmate Law Library

STAFF RESPONSIBLE FOR IMPLEMENTATION AND MONITORING OF POLICY:

- Deputy Commissioner of the Prison Division
- PREA Coordinator
- Assistant Deputy Commissioner(s)
- Superintendents
- PREA Managers
- Chief of Office of Investigative Services
- Chief of Office of Internal Affairs

EFFECTIVE DATE: 03/26/2015

CANCELLATION: 103 DOC 519 cancels all previous Department policies, statements, procedures, directives, bulletins, orders, notices, rules and regulations regarding sexually abusive behavior prevention

and intervention that are inconsistent with this policy.

SEVERABILITY CLAUSE: If any part of 103 DOC 519 is, for any reason, held to be unconstitutional, contrary to statute or in excess of the authority of the Commissioner, such decisions shall not affect any other part of this policy.

519.01 **DEFINITIONS**

Allegation- Any event that has been reported to a Department staff person, contractor, or volunteer but which has not yet been verified or investigated.

At Risk- Inmates who exhibit characteristics consistent with potential victims or perpetrators of sexually abusive behavior.

Intersex- A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development.

Intimacy- Any behavior not defined as sexual abuse or harassment of an inmate including kissing, touching parts of the body not defined under sexual abuse or other related acts including, but not limited to, sending/receiving personal letters/cards/gifts or engaging in phone calls with an inmate. Intimate relationships between staff and inmates are expressly prohibited.

Physical Assault- Any action taken by an individual, which is deemed as causing injury or potential injury to another individual. Any deliberate physical contact, either via an object or through bodily fluids, perpetrated by one individual toward another.

Prison Rape Elimination Act ("PREA")- Federal legislation (Public Law No. 108-79), enacted in 2003 to provide for the analysis of the incidence and effects of prison rape in federal, state and local institutions and to provide information, resources, recommendations and funding to protect individuals from prison rape.

PREA Coordinator- An upper level agency-wide PREA coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all of its facilities.

PREA Manager- The facility level manager with sufficient time and authority responsible for implementing and monitoring the Sexually Abusive Behavior Prevention and Intervention Policy and coordinates the facility's compliance with the Prison Rape Elimination Act. This person shall normally be the Deputy Superintendent of Classification, Programs and Treatment.

PREA Safety Assessment- An assessment devised to ensure that facility physical plants and operational systems are assessed periodically in relation to National Prison Rape Elimination Commission standards and Department performance measures.

Sexual Abuse, Inmate-on-Inmate- Sexual abuse of an inmate, detainee, or resident by another inmate, detainee, or resident includes any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument; and
- (4) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.

Sexual Abuse, Staff-on-Inmate- Sexual abuse of an inmate, detainee, or resident by a staff member, contractor, or volunteer includes any of the following acts, with or without consent of the inmate, detainee, or resident:

- (1) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight;
- (2) Contact between the mouth and the penis, vulva, or anus;
- (3) Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (4) Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (5) Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (6) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (1)-(5) of this section;
- (7) Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, and
- (8) Voyeurism by a staff member, contractor, or volunteer. Voyeurism by a staff member, contractor, or volunteer means an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

Sexual Assault Investigator- Department employee assigned by the Superintendent and/or Chief(s) of the Office of Investigative Services ("OIS") and/or the Internal Affairs Unit ("IAU") to investigate allegations of sexually abusive behavior.

Sexual Assault Nurse Examiner ("SANE") Program-

Delivers coordinated expert forensic and medical care necessary to increase successful prosecution of sex offenders and to assure essential medical intervention to victims of assault who are examined at SANE designated emergency Departments.

Sexual Harassment- Sexual harassment includes:

(1) Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and

(2) Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Staff Member- For the purpose of this policy, staff member shall include staff members, contract staff and volunteers.

Staff Sexual Misconduct- All sexual contact between an inmate and an employee, contractor, volunteer, is considered sexual misconduct even if the inmate seemingly "consents" because inmates are deemed incapable of "consent."

Victim Advocate- The individual assigned to meet with inmate victims of sexually abusive behavior in order to educate them as to the treatment services available to them, and to inform them as to the status of the investigation, disciplinary and classification processes pertaining to the alleged claim of sexually abusive behavior. A qualified agency staff member or a qualified community-based representative shall be an individual who had been screened for appropriateness to serve in this role and had received education concerning sexual assault and forensic examination issues in general.

Youthful Inmate- any person under the age of 18 who is under adult court supervision and incarcerated or detained in a prison or jail.

The Department has zero tolerance toward all forms of sexual abuse and sexual harassment and is committed to preventing, detecting, and responding to such conduct. The Department shall embrace the standards set forth by the National Prison Rape Elimination Commission and the American Correction Association for all state correctional jurisdictions.

Incidents of sexually abusive behavior involving staff on staff or inmate on staff shall be covered in 103 DOC 522, Internal Affairs Unit, and 103 DOC 407, Victim Service Unit, policies. These policies address the security, treatment and management issues relating to inmate victims.

All intentional acts of sexually abusive behavior or intimacy between an inmate and a Department employee, contractor or volunteer, or an inmate and an inmate, regardless of consensual status, are prohibited. The perpetrators shall, where appropriate, be subject to administrative and criminal and/or disciplinary sanctions. The Department is committed to investigating, disciplining up to and including termination and referring for prosecution Department employees, contractors, volunteers and inmates who engage in sexually abusive behavior. The Department is equally committed to providing crisis intervention and ongoing treatment or referrals to the victims of these acts.

The Department resolves to:

- i Prohibit all forms of sexual activity involving inmates.
- i Accurately identify and track perpetrators and inmate victims of sexually abusive behavior;
- i Screen and assess inmates for their risk of being sexually abused by other inmates or of being sexually abusive towards other inmates.
- i Provide ongoing education to Department employees, contractors, and volunteers regarding their responsibility toward prevention, intervention, and reporting when incidents are observed or made known to them;

- i Provide effective and ongoing orientation to inmates regarding how to avoid victimization and how to report incidents of sexual abuse;
- i Provide for a thorough investigation of all reported incidents and pursue discipline and/or prosecution of perpetrators when appropriate;
- i Provide effective short and long-term treatment for victims of sexually abusive behavior.

519.03 **REPORTING REQUIREMENTS**

A. Staff Reporting

All allegations and incidents of inmate-on-inmate or staff-on-inmate sexually abusive behavior shall immediately be reported by Department employees, contractors and volunteers to the shift commander verbally and followed up with a confidential incident report to the superintendent before the end of his/her shift. This shall include any knowledge, suspicion or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, retaliation against inmates or staff who reported such an incident and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

Apart from reporting to designated supervisors and/or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to make treatment, investigation and other security and management decisions.

During non-business hours, these allegations shall be reported to the shift commander who shall ensure that the superintendent is immediately notified. Failure of any Department employee, contractor or volunteer to report these allegations may result in disciplinary action, up to and including termination.

Staff shall accept reports made verbally, in writing, anonymously, and from third parties. Staff shall promptly document any verbal reports.

The superintendent shall notify his/her respective Assistant Deputy Commissioner of incidents of alleged

sexually abusive behavior. The superintendent shall also immediately notify the OIS or the IAU (as appropriate) and the PREA Coordinator. The respective Assistant Deputy Commissioner shall ensure that the Deputy Commissioner of the Prison Division is briefed on all alleged incidents of sexually abusive behavior. If the allegations involve a possible violation of state law, the OIS or IAU (as appropriate) shall promptly notify the jurisdictionally appropriate district attorney's office once it is determined that sufficient probable cause exists to warrant such notification.

B. Inmate Reporting

The Department has established multiple internal ways for inmates to privately report sexual abuse, sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment and/or staff neglect or violation of responsibilities that may have contributed to such incidents. A Department hotline has been designated within the inmate telephone system. The hotline number is (508-422-3486) and shall allow for universal and unimpeded access by all inmates within the Department and shall be listed in all institutional inmate orientation manuals. It is not recorded and is available to all inmates without using their PIN numbers. Each facility has also established a site specific inner perimeter security ("IPS") hotline, which may be utilized. Additional methods to report include the inmate grievance system, staff access periods, the facility PREA Manager, and IPS staff members.

C. Outside Agencies

Upon a superintendent's receipt of an allegation that an inmate was sexually abused while confined at another facility or agency, the superintendent shall notify the appropriate superintendent or chief administrative officer of the agency where the alleged abuse occurred. Such notifications shall be provided as soon as possible, but no later than seventy-two (72) hours after receiving the allegation and shall be documented in writing. The superintendent or agency

office that receives such notification shall ensure that the allegation is investigated.

D. Third Party Reporting by Inmates

Inmates may also report sexual abuse or harassment to external public or private agencies via correspondence or use of the inmate telephone system. Calls to "privileged" numbers, including universally approved legal assistance phone numbers, pre-authorized personal attorney telephone phone numbers, a foreign national's pre-authorized telephone number to his/her consular office or diplomat, pre-authorized clergy telephone numbers and pre-authorized licensed psychologist, social worker and/or mental health professional telephone numbers, are not subject to telephone monitoring and are not recorded.

The Department shall accept and investigate verbal, written and anonymous third party reports of sexual abuse and harassment. Third party entities may report abuse to the Department Duty Station at Line 1 - 508-422-3481 and Line 2 - 508-422-3483. These reports shall be immediately forwarded to the proper superintendent or Division head.

519.04 **PREVENTION**

All Department employees, contractors, and volunteers are responsible for contributing to the prevention of sexually abusive behavior perpetrated by staff-on-inmates or by inmates-on-inmates as outlined in this policy.

Inmates are responsible for familiarizing themselves with the Department's orientation material on sexual abuse prevention and intervention. Inmates are also responsible for reporting allegations in a timely fashion to a staff person, contractor, or volunteer or third party for forwarding to the Department in order to ensure their safety and the safety of others.

The Department shall be responsible for planning and implementing measures to prevent sexually abusive behavior from occurring. The Department strives to create a safer environment for staff and inmates,

which is free from sexual harassment and exploitation. In this regard, the Department shall provide for the following resources and practices:

A. Training and Education

The Division of Staff Development and the PREA Coordinator shall provide ongoing training to ensure that all Department employees and contractors are educated regarding their responsibilities to prevent and report incidents of sexually abusive behavior. In addition, specialized training shall be provided for those employees who respond to and investigate PREA incidents. The Director of Program Services is responsible for educating volunteers regarding their responsibilities to prevent and report incidents of sexually abusive behavior.

B. Identification and Reporting

The Department shall utilize an internal risk housing tool to assess inmates for their risk of vulnerability or predatory behavior in accordance with 103 DOC 400, Inmate Management.

(1) Inmates at risk or who have a history of inmate sexual abuse victimization

(a) All inmates entering a Department institution, and upon subsequent transfers between institutions, shall be screened within twenty-four (24) hours by a qualified medical professional for a history of and the risk for inmate sexual abuse victimization in accordance with 103 DOC 630, Medical Services. If the Department learns that an inmate is subject to a substantial risk of imminent sexual abuse, it shall take immediate action to protect the inmate. Inmates identified through self reports or medical reports as having a history of sexual abuse victimization and/or at risk of being a victim of inmate sexual abuse shall be referred to a mental health clinician for assessment, monitoring, and counseling. Such reports shall be documented in the appropriate Inmate

Management System ("IMS") screen and a confidential incident report written to the superintendent to ensure that appropriate steps (e.g., investigation, housing assignment) are taken.

- (b) Upon learning that an inmate has been identified as having been a victim, or is at risk for such, the superintendent shall carefully assess the immediate needs and housing assignment of the inmate. Where double bunking is necessary, the staff members making assignments shall rely upon standard guidelines for cell matching and good judgment in selecting a cellmate for the inmate. Similar consideration shall be given for placement of an inmate in a dormitory setting.
 - (c) Inmates at high risk for sexual victimization shall not be placed in involuntary segregated housing unless an assessment of all available alternatives has been made, and a determination has been made that there is no available alternative means of separation from likely abusers. If a facility cannot conduct such an assessment immediately, the facility may hold the inmate in segregated housing for less than twenty-four (24) hours while completing the assessment.
- (2) Inmates with a history of or at risk of inmate predatory sexually abusive behavior.
- (a) All inmates entering a Department institution, and upon subsequent transfer between institutions, shall be screened within twenty-four (24) hours of their arrival by a qualified medical professional for a history of sexually abusive behavior in accordance with 103 DOC 630, Medical Services. Inmates identified through self reports or medical reports as having a history of sexually abusive behavior shall be documented in the appropriate IMS screen and a confidential incident report written

to the superintendent to ensure that appropriate steps (e.g. investigation, housing assignment, referral to treatment program) are taken.

- (b) Booking officers and the Criminal Records Processing Unit ("CRPU") staff shall also screen inmates for a history of sexually abusive behavior by conducting a review of criminal record information, (e.g., judgment and commitment orders; 6 part record and board of probation record(s)). Inmates identified as having a history of sexually abusive behavior not previously identified, shall be documented in the appropriate IMS screen and a confidential incident report shall be submitted to the superintendent.
- (c) The Department shall utilize the internal risk housing placement form to help identify inmates with a risk of sexually abusive behavior. Those inmates identified shall be referred to appropriate institutional programming. The program referral shall be made part of the inmates individualized program plan and shall be monitored in accordance with 103 CMR 420, Classification. Every effort shall be made to have programming available to these identified inmates.
- (d) Upon learning that an inmate has been identified as a predator, or is at risk for such, the superintendent shall carefully assess the immediate needs and housing assignment of the inmate. Where double bunking is necessary, the staff members making assignments shall rely upon standard guidelines for cell matching and good judgment in selecting a cellmate for the inmate. Similar consideration shall be given for placement of an inmate in a dormitory setting.

C. Inmate Education

- (1) Each superintendent shall ensure that new inmates to the Department receive gender specific verbal, written and video presentations about prisoner sexual violence in English and/or Spanish. All written orientation materials about sexually abusive behavior shall be provided in English and/or Spanish. Other non-English speaking inmates shall receive translation into their own language(s) via the telephonic interpreter service. When a literacy problem exists, a staff member shall assist the inmate in understanding the material.
- (2) All superintendents shall provide intrasystem transfers with verbal and written information regarding prevention/intervention, self-protection, reporting sexual abuse/assault and treatment and counseling.
- (3) All inmate orientation manuals shall include a section that addresses these issues in accordance with 103 DOC 401, Booking and Admissions.

D. Public Education

The Department is committed to the continued communication with and education of inmate family members, agency constituents, other state agencies, community work crew recipients, work release employers and the general public regarding the PREA initiative undertaken by the Department and how they can support these efforts. This includes informational pamphlets, video presentations, discussion forums, postings on the Department Internet page, social media and news releases as appropriate.

519.05 INTERDICTION

- A. Each superintendent shall identify a facility PREA Manager, who shall normally be the Deputy Superintendent. This responsibility shall be delineated on the facility organizational chart.
- B. AT least annually, each superintendent shall conduct a PREA Safety Assessment of his/her facility in accordance with Attachment IV. The superintendent shall consider past PREA events, their staffing plan,

recent changes to the facility environment and the unique mission and population assigned. They shall interview staff members and inmates regarding inmate safety and shall identify operational practices which should be improved upon. It is important that each superintendent make every effort to ensure that staff members are interacting directly with inmates in their living environment. It is important to ensure that staff and inmates are properly trained and to ensure that staff members are reporting any incidents, allegations or observations of the sexual abuse of inmates in their care. Each superintendent shall develop and maintain a PREA Safety Assessment which documents areas of concern within the facility and defines action steps to address those concerns. A copy of the PREA Safety Assessment shall be submitted to the PREA Coordinator for review.

- C. Each superintendent shall be required to develop and monitor a list of known PREA victims and known PREA predators assigned to his/her facility and monitor the behavior and wellbeing of the inmates identified on the list.
- D. Each superintendent shall ensure that reports by Department employees, contractors, volunteers and third parties regarding suspicions of sexually abusive behavior or related activities are referred to investigators for follow-up.
- E. On an annual basis, each superintendent shall insure that every Department employee, contractor and volunteer assigned to his/her facility has their home phone number(s) and/or cell phone number(s) checked against the inmate telephone database. Any positive matches (hits) shall be reported, via the investigative intake form, to the Chief of the OIS for appropriate action.
- F. Each superintendent shall ensure that youthful inmates are not placed in a housing unit in which the youthful inmates will have sight, sound, or physical contact with any adult inmate through use of a shared dayroom or other common space, shower area or sleeping quarters.

In areas outside of housing units, facilities shall either maintain sight and sound separation between youthful inmates and adult inmates, or provide direct supervision by security staff when youthful inmates and adult inmates have sight, sound or physical contact.

Superintendents shall make best efforts to avoid placing youthful inmates in isolation to comply with this provision. Absent exigent circumstances, the facility shall not deny youthful inmates daily large-muscle exercise and any legally required special education services to comply with this provision. Youthful inmates shall also have access to other programs and work opportunities to the extent possible.

- G. Superintendents shall implement procedures that enable inmates to shower, perform bodily functions and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks.
- H. Superintendents shall require staff of the opposite gender to announce their presence when entering an inmate housing unit whenever such entry changes the status quo of the gender of staff on duty in that area, in accordance with 103 DOC 512, Post Orders.

519.06 **INTERVENTION**

The safety of all persons, whether Department employees, contractors, volunteers or inmates, is a fundamental objective of the Department. As such, it is an integral part of everyone's job to report and respond to allegations of sexually abusive behavior.

- A. Immediate Response to Sexually Abusive Behavior Complaints

Each facility shall maintain an Emergency Response Plan and PREA response kits containing the items necessary to facilitate their response to potential PREA events. Response plans should be included in the facility procedures and shall contain the following actions:

In the event of a report that an inmate has been sexually abused by another inmate or a staff member, the Department employee, contractor or volunteer receiving such complaint shall take the following steps:

- (1) Immediately notify the shift commander;
- (2) Request that the shift commander secure the scene, if warranted, for subsequent crime scene processing;
- (3) Ensure that the alleged victim and perpetrator are separated;
- (4) Instruct the victim and perpetrator not to take any action that would destroy physical evidence (i.e., washing, eating, drinking, brushing teeth, changing clothes);
- (5) Receive the reporter's information on what took place. Make note of the behavior and appearance of the inmate(s) and identify any witnesses to the event;
- (6) Ensure that the inmate victim is immediately taken to the institution health services unit for emergency medical care/mental health treatment;
- (7) Enter detailed information on an IMS incident report before the end of the shift.

B. Medical Response to Sexually Abusive Behavior Complaints

- (1) Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services. A qualified health care professional shall evaluate and document the extent of the physical injury and provide emergency medical treatment as needed;
- (2) An emergency mental health referral to the on-site mental health professional shall be made

following the completion of the medical evaluation;

- (3) Upon completion of the medical and mental health evaluation, the superintendent/designee, in consultation with medical and mental health personnel, shall determine whether a referral to an outside hospital with a rape crisis unit and SANE Program services is warranted. Factors to be considered are the time frame between the alleged assault and complaint, as well as the extent and nature of the allegation as described in 103 DOC 630, Medical Services;
- (4) If the determination is made that the inmate victim should be sent to an outside hospital, and if the inmate victim consents, the inmate victim shall be transported to an outside hospital with a SANE program where they shall receive essential medical intervention to include preventative treatment for HIV, sexually transmitted diseases and pregnancy, if appropriate. The guidelines for referring an inmate to an outside hospital for rape crisis intervention services shall be found in 103 DOC 630, Medical Services;
- (5) In the event that the inmate has injuries warranting immediate medical treatment, the inmate may be taken to a non-SANE Program medical site for stabilization prior to transportation to a SANE Program site for a rape examination.
- (6) Upon return from the outside hospital, the inmate victim shall be brought to the Health Services Unit for appropriate follow-up care, to include a mental health screening by qualified contractual health care personnel. If during this screening there are any indications that the inmate victim is at risk to hurt his or herself or others, a mental health professional shall be immediately notified. Otherwise, the inmate victim shall be seen by a mental health professional within twenty-four (24) hours or no later than the next business day to assess the need for crisis intervention and long-term counseling pursuant to 103 DOC 650, Mental Health Services;

- (7) To avoid the potential for secondary victimization, an inmate victim may be allowed to refuse institutional and/or rape crisis intervention treatment at an outside hospital. In these situations, the inmate victim shall be permitted to refuse treatment at the institution. Before the refusal is accepted, the Department's contractual medical and mental health provider shall attempt to encourage the inmate to go to the outside hospital for treatment.

In cases where the inmate victim continues to refuse treatment, the inmate victim shall be required to sign a Refusal of Treatment form pursuant to 103 DOC 630, Medical Services. Provisions shall be made for testing sexually transmitted diseases (e.g., HIV, gonorrhea, hepatitis) as well as prophylactic treatment, follow-up care and counseling pursuant to 103 DOC 631, Communicable Disease, 103 DOC 620, Special Health Care Practices, and 103 DOC 650, Mental Health Services;

- (8) Once cleared by medical and mental health staff, the superintendent/designee shall determine an appropriate housing assignment for the inmate victim;
- (9) Community based victim advocacy services are provided to the inmate as part of the SANE examination at the outside hospital/rape crisis center. If continued services are requested by the victim upon return from the hospital, a qualified agency staff member from the Department's Victim Services Unit, a contracted advocate or community-based advocate shall be coordinated by the Director of the Victim Services Unit. The advocate assigned shall accompany and support the victim through the forensic medical examination process and investigatory interviews, information, and referrals in accordance with 103 DOC 407, Victim Services Unit.
- (10) Rape crisis services shall be provided at no cost to the alleged victim unless the claim of being sexually assaulted was knowingly false.

C. Security Response to Sexually Abusive Behavior Complaints

- (1) All reports of sexual activity are to be considered PREA until a full investigation indicates otherwise.
- (2) Whenever possible, evidence collection shall be conducted by the Sexual Assault Investigator prior to the inmate's transport to an outside hospital.
- (3) Evidence collected at an outside hospital involving allegations of inmate-on-inmate sexually abusive behavior shall be retained by the transporting officer in accordance with 103 DOC 518, Inner Perimeter Security Team (IPS). In instances where the alleged perpetrator is a staff member, the outside hospital staff shall notify the State Police who shall transport any evidence collected to the State Police Crime Lab for analysis;
- (4) The Department employee, contractor or volunteer receiving such a complaint shall follow institutional notification procedures, including the filing of an incident report;
- (5) As appropriate, the OIS or the IAU shall be notified during business hours (Monday-Friday 7:00am - 5:00pm) by telephone. The telephone number for the OIS is 508-422-3387, and the telephone number for the IAU is 508-422-3376. The Investigative Services Duty Officer shall be notified during non-business hours via the duty station at 508-668-2760;
- (6) If the superintendent believes that a felony may have been committed, the jurisdictionally appropriate district attorney's office and the State Police detective unit assigned to said district attorney's office shall be notified and the Department shall seek assistance and begin a cooperative investigation with these agencies.

Each superintendent shall identify in writing, as an attachment to this policy, the phone numbers of the jurisdictionally appropriate district attorney's office and the State Police assigned to the district attorney's office;

- (7) If the alleged victim is under the age of 18 or considered a vulnerable adult under state or local vulnerable persons statute(s), the Department shall report the allegation to the designated state or local services agency under applicable mandatory reporting laws.
- (8) If an inmate's involvement in the alleged sexually abusive behavior is suspected, he/she shall be placed in a secure setting pending investigation;
- (9) The superintendent shall ensure that a PREA database case is opened for all investigations and that all appropriate documentation is recorded.
- (10) The superintendent shall ensure that appropriate documentation is entered into IMS as required by 103 DOC 426, Conflicts policy.

D. Investigation Response to Sexually Abusive Behavior:

- (1) The Department shall ensure that an administrative or criminal investigation is completed for all allegations of sexual abuse and sexual harassment utilizing those staff members who have received specialized training as it relates to PREA.
- (2) The assigned sexual assault investigator shall ensure that all evidence collected at the facility or at any hospital (Sexual Assault Evidence Collection Kit/Rape Kit, etc.) is transported to the State Police Laboratory as soon as possible. Evidence retained in excess of twenty-four (24) hours (weekends/holidays), shall be properly refrigerated;
- (3) Potential witnesses shall be interviewed in an attempt to corroborate the victim's statements or

to identify any suspect(s). Care should be taken to ensure the safety and security of potential witnesses from retribution or retaliation, and if necessary and warranted, potential inmate witnesses shall be afforded opportunities for changes in housing placement, more secure housing, and/or accelerated classification for transfer;

- (4) If sufficient information or evidence is obtained during the investigation, a disciplinary report shall be issued pursuant to 103 CMR 430.00, Inmate Discipline.

E. Classification Response to Sexually Abusive Behavior Complaints

The superintendent shall ensure that upon conclusion of the PREA investigation, a new Inmate Housing Risk Assessment is to be completed, and an Internal Classification Status Review of the inmate predator and/or inmate victim, shall also be scheduled in order to determine appropriate classification in accordance with 103 CMR 420, Classification.

519.07 INVESTIGATION OF SEXUALLY ABUSIVE BEHAVIOR COMPLAINTS

The Department shall ensure that an administrative and/or criminal investigation is completed for all allegations of sexual abuse and sexual harassment and that all available means are used to fully investigate such allegations. Within seventy-two (72) hours of the reported incident, it shall be the responsibility of the site's superintendent to review and assess all reports of allegations and incidents of sexually abusive behavior and determine if the appropriate course of action has been followed. The superintendent shall notify the PREA Coordinator of such events and will ensure that a case file is promptly opened in the PREA Database.

A. Sexually Abusive Behavior Between Inmates

Investigations of reported incidents of alleged sexually abusive behavior between inmates shall be initiated by the superintendent utilizing facility investigative staff or, upon request to the Chief of

the OIS, in conjunction with an investigator from OIS. The investigator assigned by the superintendent shall be responsible for producing an investigative report and completing the PREA Database case file within thirty (30) days. Extensions may be requested to, and granted by the PREA Coordinator for good cause.

B. Staff Accused of Sexually Abusive Behavior with Inmates

If a staff member is accused of sexually abusive behavior with an inmate, the superintendent shall request a Category II investigation by submitting an Investigative Services Intake Form pursuant to 103 DOC 522, Internal Affairs Unit, and shall alert the PREA Coordinator. The staff member may be placed by the superintendent or Department Head on "no inmate contact status" or "detached with pay status" by the Commissioner pending an investigation of the matter. Contractors who are accused of sexually abusive behavior may be removed from the facility until the investigation is completed. All volunteers who are accused shall be barred from entering any correctional facility until the investigation is completed.

The Chief of the OIS and/or the Chief of the IAU shall provide necessary access to the complaint intake and status screens for PREA cases for review by the PREA Coordinator as defined by 103 DOC 522, Internal Affairs Unit. The format for the investigative report shall follow the procedures set forth in 103 DOC 518, Inner Perimeter Security Team (IPS). The Chief of the OIS or Chief of the IAU, having oversight of the investigation, shall also ensure that a PREA Database case file is promptly opened and completed within thirty (30) days. Extension requests for good cause can be made to, and granted by, the PREA Coordinator.

C. Retaliation

Retaliation by any employee against another employee, contractor, volunteer or inmate for reporting complaints of sexually abusive behavior, assisting in making such a report or for cooperating in the investigation of such a complaint, regardless of the merits or disposition of the complaint, is prohibited.

Any such occurrence is a very serious matter that may result in discipline, up to and including termination.

The Department protects all inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse or sexual harassment investigations from retaliation by other inmates or staff.

The Department employs multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff or inmate abusers from contact with victims and emotional support services for inmates or staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.

Superintendents shall implement procedures to ensure the following:

- i For at least 90 days following a report of sexual abuse, IPS staff shall regularly meet with and monitor the conduct and treatment of inmates or staff who reported the sexual abuse and of inmates who were reported to have suffered sexual abuse to see if there are claims and/or changes that may suggest possible retaliation by inmates or staff, and shall act promptly to remedy any such retaliation.
- i IPS staff should monitor any inmate disciplinary reports, housing, program changes or negative performance reviews or reassignments of staff.
- i Monitoring shall continue beyond 90 days if the initial monitoring indicates a continued need. In the case of inmates, such monitoring shall also include periodic status checks.
- i The documentation of monitoring must be recorded in the investigation file.

If any other individual who cooperates with an investigation expresses a fear of retaliation, the Department shall take appropriate measures to protect

that individual against retaliation.

The Department's obligation to monitor shall terminate if the investigation determines that the allegation is unfounded.

D. Reporting to Inmates

Following an investigation into an inmate's allegation that he/she suffered sexual abuse in an a Department facility, the superintendent shall inform the inmate as to whether the allegation has been determined to be substantiated, unsubstantiated or unfounded by utilizing attachment I.

If the Department did not conduct the investigation, it shall request the relevant information from the investigative agency in order to inform the inmate.

Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the Department shall subsequently inform the inmate of the staff member's status utilizing attachment II (unless the investigation has determined that the allegation is unfounded).

Following an inmate's allegation that he or she has been sexually abused by another inmate, the Department shall subsequently inform the alleged victim of the legal status utilizing attachment III.

The Department's obligation to report shall terminate if the inmate is released from the agency's custody.

519.08 **PREA COMMITTEES AND SEXUAL ABUSE INCIDENT REVIEWS**

Each facility shall establish a PREA committee comprised of those individuals deemed integral to successful implementation of the PREA process at that site. The PREA committee is to conduct monthly documented meeting to assess site specific PREA issues and guide the facility's compliance with PREA regulations. The committee's activities are to be coordinated by the site's PREA manager.

The facility shall also conduct a sexual abuse incident review at the conclusion of every sexual abuse investigation, including where the allegation has not been substantiated, unless the allegation has been determined to be unfounded or, the investigation determined that the event was not PREA (i.e., the sexual contact occurred but lacked a victim/perpetrator relationship).

Such review shall ordinarily occur within thirty (30) days of the conclusion of the investigation. Conclusion is recognized as the date on which the superintendent/designee enters the official outcome of the case. The review team shall include upper-level management officials, with input from line supervisors, investigators and medical or mental health practitioners.

A. The review team shall:

- (1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect or respond to sexual abuse;
- (2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification status or perceived status; gang affiliation or was motivated or otherwise caused by other group dynamics at the facility;
- (3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse;
- (4) Assess the adequacy of staffing levels in the area in the facility where the incident allegedly occurred during different shifts;
- (5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff and
- (6) Prepare a report of its findings, including but not necessarily limited to determinations made

pursuant to the above and any recommendations for improvement and submit such report to the facility head and the PREA Coordinator. This review shall be documented in the PREA database. The facility shall implement the recommendations for improvement or shall document its reasons for not doing so.

519.09 **DATA COLLECTION/ANALYSIS/STORAGE**

All incidents or allegations of sexually abusive behavior shall be documented in a timely and accurate manner via the investigative process and in the PREA database by the certified investigators assigned by superintendents or the Chief of the OIS.

Other sources may be queried to develop intelligence information that may become useful to prevent sexually abusive behavior. These may include, but not be limited to, inmate correspondence, inmate telephone records/recordings, inmate grievances and institution climate reports.

A. Collection

The Department shall collect accurate, uniform data for every allegation of sexual abuse at facilities through the PREA database.

The Departmental PREA Coordinator/designee shall aggregate the incident-based sexual abuse data at least annually and submit a report to the Department of Justice.

The incident-based data collected shall include, at a minimum, the data necessary to answer all inquiries and surveys from by the Department of Justice.

The Department shall maintain, review and collect data as needed from all available incident based documents, including reports, investigation files and sexual abuse incident reviews. The Department shall also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.

The Departmental PREA Coordinator shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.

B. Data review for corrective action

The Department shall review data collected and aggregated in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices and training, including by:

- (1) Identifying problem areas;
- (2) Taking corrective action on an ongoing basis; and
- (3) Preparing an annual report of its findings and corrective actions for each facility, as well as the Department as a whole.
- (4) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual abuse.
- (5) The Department's report shall be approved by the Commissioner and made readily available to the public through the Department's website.
- (6) The Department will redact specific material from the reports when publication would present a clear and specific threat to the safety and security of a facility, but shall indicate the nature of the material redacted.

C. Data storage, publication, and destruction

The Department shall ensure that data collected is securely retained.

- (1) The Department shall make all aggregated sexual abuse data, from facilities under its direct control and private facilities with which it contracts, readily available to the public at least annually through its website.

- (2) Before making aggregated sexual abuse data publicly available, the Department shall remove all personal identifiers.
- (3) The Department shall maintain sexual abuse data collected for at least ten (10) years after the date of the initial collection.

519.10 **Supervision and Monitoring**

At least annually, the Deputy Commissioner of Prisons will meet with the PREA Coordinator to assess, determine and document whether adjustments are needed to the facility staffing plans in conjunction with the facility PREA safety assessment and other available resources of information. This assessment shall be used to determine and document whether adjustments are needed to:

- i The staffing plan established pursuant to 103 DOC 510, Security Staffing and Analysis;
- i The facility's deployment of video monitoring systems and other monitoring technologies; and
- i The resources the facility has available to commit to ensure adherence to the staffing plan.

519.11 **FALSE ALLEGATIONS**

If the Department investigation reveals that an inmate, Department employee, contractor or volunteer has knowingly made false allegations or made a material statement, which he/she, in good faith, could not have believed to be true, then the Department may take appropriate disciplinary action and/or refer the matter for criminal action under the Massachusetts General Laws, as appropriate. This information shall be included in any orientation booklet as well as within the training provided to Department employees, contractors or volunteers and inmates.

519.12 **EMERGENCIES**

Whenever, in the opinion of the Commissioner or the superintendent of a state correctional facility, an emergency exists which requires suspension of all or

part of this policy, the superintendent may order such suspension. However, any such suspension lasting beyond forty-eight (48) hours must be authorized by the Commissioner.

Inmate Notification

To:

From: Superintendent

Date:

Re: PREA Notification (Case #)

Pursuant to PREA Regulations, 28 CFR §115.73(a) Reporting to Inmates, I am notifying you of the following;

An investigation has been conducted into your allegation that you suffered sexual abuse, and the result is;

Substantiated

Unsubstantiated

Unfounded

If you have any questions or concerns, please feel free to correspond with my office.

CC: 6-part folder
PREA file
File

Inmate Notification

To:

From: Superintendent

Date:

Re: PREA Notification (Case #)

Pursuant to PREA Regulations, 28 CFR §115.73(c) Reporting to Inmates, I am notifying you of the following;

Based upon the findings rendered in PREA Investigation # , I am informing you of the following;

The staff member in your complaint is no longer posted within your unit

The staff member in your complaint is no longer employed at the facility

The staff member in your complaint has been indicted on a charge related to sexual abuse within the facility

The staff member in your complaint has been convicted on a charge related to sexual abuse within the facility

Please be advised that notifications on this matter will cease upon your release from custody.

If you have any questions or concerns, please feel free to correspond with my office.

CC: 6-part folder
PREA file
file

Inmate Notification

To:

From: Superintendent

Date:

Re: PREA Notification (Case #)

Pursuant to PREA Regulations, 28 CFR §115.73(d) Reporting to Inmates, I am notifying you of the following;

Based upon the findings rendered in PREA Investigation # , I am informing you of the following;

The inmate in your complaint has been indicted on a charge related to sexual abuse within the facility

The inmate in your complaint has been convicted on a charge related to sexual abuse within the facility

Please be advised that notifications on this matter will cease upon your release from custody.

If you have any questions or concerns, please feel free to correspond with my office.

CC: 6-part folder

Attachment IV

Annual PREA Safety Assessment

(Submit to the Department's PREA Coordinator by January 31 of each year)

Facility: _____

The facility's designated PREA Manager is: _____
(Name/title)

The facility's PREA Committee is comprised of the following staff members:

_____	_____
(Name/title)	(Name/title)
_____	_____
(Name/title)	(Name/title)
_____	_____
(Name/title)	(Name/title)
_____	_____
(Name/title)	(Name/title)
_____	_____
(Name/title)	(Name/title)

*If necessary, include additional names on a separate sheet.

The facility's PREA Committee meets on the following basis:

(Identify the frequency and location)

Through its activity and case reviews, etc, the PREA Committee has identified the following issue(s) of concern: _____

*If necessary, include comments on a separate sheet.
Please attach the following site specific documents:

Facility's vital/vulnerable area assessment	PREA
Emergency Response Plan	
PREA Response Kit Contents/Locations	Annual phone
number audit	
Staff interviews (minimum of ten)	Inmate
interviews (minimum of ten)	
Superintendent	Date

Instruction for the completion of required attachments

Facility's PREA Safety Assessment

This document should reflect your assessment of your site's vital and vulnerable areas with regard to PREA related activity. Identify and list the areas prone to (and most at risk for) PREA events. Accompany each area noted with the action(s) you recommend as necessary. For example, to deter or detect PREA related activity an area may require a surveillance camera or a security mirror, additional rounds or staff post. Third, note the status of each specific area (i.e., camera ordered, pending installation, post orders adjusted, etc).

PREA Emergency Response Plan

Develop an Emergency Response Plan and corresponding checklist specific to how you will respond to PREA issues at your site.

PREA Response Kit Contents/Locations

Develop standardized/pre-packaged PREA Response Kits with the items you will need when responding to a sexual assault. List the contents and locations of these kits.

Annual Phone Number Audit

On an annual basis, superintendents shall insure that all Department employees, contractors and volunteers' home phone numbers and/or cell phone numbers be checked against the inmate telephone database. Any positive matches (hits) shall be reported via the investigative intake form to the Chief of the Office of Investigative Services for appropriate action. Note the date of completion of this audit, the staff person who completed it and a summary of the results.

Staff Interviews (minimum of ten)

Policy requires that staff members be interviewed regarding inmate safety to identify operational practices which should be improved upon. Note the results of interviews with at least ten staff.

Inmate Interviews (minimum of ten)

Policy requires that inmates be interviewed regarding inmate safety to identify operational practices which should be improved upon. Note the results of interviews with at least ten inmates.